

REMARKS

Claims 29-55 are presented for examination, of which Claims 29, 36, 40, 47 and 51-53 are in independent form. Claims 29, 35, 36, 38, 41, 43, 45-47 and 49-55 have been amended to provide Applicant with a more complete scope of protection. Favorable reconsideration is respectfully requested.

In the outstanding Office Action, Claims 29-31, 33-35, 40-42, 44-46, 51, 53 and 55 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,359,628 (Buytaert). Claims 32, 43 and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Buytaert* in view of U.S. Patent 6,522,354 (Kawamura et al.), Claims 36, 37, 39, 47, 48, 50 and 52, as being unpatentable over *Buytaert* in view of U.S. Patent 6,282,513 (Strawder), and Claims 38 and 49, as being unpatentable over *Buytaert* in view of *Strawder* and *Kawamura*.

Independent Claim 29 is directed to an image processing apparatus that comprises image taking means for taking an image by driving an irradiation apparatus based on an image taking condition. Display control means control display of the image taken by the image taking means, and selection means select an image as an object for re-taking from among the already-taken images so displayed. Also provided are re-taking instruction means that instruct the image taking means to re-take the image corresponding to that selected by the selection means. Also, according to Claim 29, the re-taking instruction means are adapted to set the image taking condition of the selected image into the image taking means, where the image taking condition of the selected image is set as an initial value.

Applicant thus has clarified independent Claim 29 by specifying still more clearly what is meant by reference to the image taking condition (that is, driving of the irradiation

apparatus). The irradiation apparatus could be, for example, the X-ray generator 5 shown in Fig. 1 of the application.¹

While the selection means are not the only element of Claim 29 that is absent from *Buytaert*, Applicant submits that the rejection of Claim 29 as explained in the Office Action is not tenable. The only selection that is apparently made in using the system is the possible selection of which output apparatus a given image is to be sent to for outputting or the like. Applicant can find nothing in that patent that has anything to do with selecting an image for re-taking, much less any part of the apparatus that could properly be viewed as the recited selection means.

The element relied upon in the Office Action as teaching that element, is the slider (col. 8, lines 62-65). As is correctly noted in the Office Action, that slider:

“gives an indication on the exposure characteristics. The slider indicates whether an image has been over- or underexposed.” (col. 8, lines 62-65)

Applicant frankly does not understand in what way a person of merely ordinary skill could obtain from that passage, or anything else in *Buytaert*, any suggestion of selecting among plural images to designate one to be re-taken. Much less does anything in that patent suggest that the slider, which is described merely as being an indicator, serves or is used as “means for selecting”, as recited in Claim 29. Even if the operator of the *Buytaert* apparatus were to use the apparatus in the manner speculatively described in the paragraph bridging pages 2 and 3, and again in that bridging pages 4 and 5, of the Office Action, the slider is only providing an indication of something. Even if the operator were, hypothetically, to decide that the currently-displayed

¹ As always, it is to be emphasized that the claim scope is not limited by the details of any embodiments referred to.

image should be re-taken, the operator is not making that decision *using* the slider, only based on information provided by the slider. Moreover, even then the operator is not selecting among plural images, and therefore even the operator cannot be deemed to be making the selection that the recited selection means are for.

Accordingly, Applicant submits that Claim 29 is plainly allowable over *Buytaert*.

Independent Claims 40 and 51 are method and storage medium claims respectively corresponding to apparatus Claim 29, and are believed to be patentable over *Buytaert* for at least the same reasons as discussed above in connection with Claim 29.

Additionally, independent Claim 53 includes features substantially similar to those of Claim 29, and is believed to be patentable over *Buytaert*, for reasons substantially the same as those discussed above in connection with Claim 29.

Independent Claim 36 is directed to an image processing apparatus that comprises means for taking an image in association with an image taking ID, and means for storing the image taking ID of the image taken by the image taking means. The storage means are able to store plural images such that the plural images are associated with a single image taking ID. Image selection means are provided, and when plural images are associated with a single image taking ID, select one image from the plural images associated with the single image taking ID. Marking means attach a mark to a second image from among the plural images, the second image that is being an image other than the image selected by the image selection means. Image output means output the image selected by the image selection means.

Among other notable features of the apparatus of Claim 36, therefore, is the marking means, which in a case where plural images are associated with a single image taking ID and one image is selected from among those plural images, a mark (for example, an “X” over the

image, in the described embodiments) is attached to another image from among that plurality of images.

Initially, Applicant notes that the recitations of Claim 36 are not all met by *Buytaert*, and since the outstanding rejection of this claim is based on a combination of references, it is understood that the Examiner agrees with Applicant on this point. The Office Action cites *Strawder* as supplying the required teaching of storage of plural images with the same image ID, relying at least on the description of operation given as Example 1, at col. 9, line 27, through col. 11, line 16. Assuming (although Applicant does not concede) that the proposed combination of *Strawder* and *Buytaert* would be a permissible one, however, the result of such a combination would still not teach or suggest means for marking a non-selected image from among a plurality of images stored with the same image taking ID, where an image has been selected from that plurality of images by image selection means, as recited in Claim 36. Indeed, nothing has been found or pointed out in either patent that would teach or suggest attaching a mark to an image in connection with selection of another image for output. For at least that reason, therefore, it is believed to be clear that Claim 36 is allowable over any permissible combination (if there is any) of *Strawder* and *Buytaert*.

Applicant notes, in this regard, that the Office Action elsewhere asserts that marking a non-selected image is taught by *Kawamura* (at pages 10, 11 and 15 of the Office Action). In the *Kawamura* apparatus, a number of thumbnail images are displayed together on an LCD (see Fig. 6), each thumbnail being displayed with a numeral from 1 to 6 in one corner of the thumbnail. The user decides which of the images are to be transferred from the apparatus (a digital camera) to a personal computer, and designates those which he or she wishes to transfer. The thumbnail corresponding to each of the images so designated is now displayed with a

telephone icon 51 near the thumbnail. The user can then transfer the designated images to the PC. As the transfer progresses, a PC icon 52 appears by the thumbnail of each designated image as the image is successfully transferred. If for any reason the transfer is interrupted before all the designated images have successfully been transferred, then the transfer operation is terminated, and a warning, such as “Finished Due to Error” (see Fig. 8) is shown on the LCD along with the thumbnails. At this point, the designated thumbnails are still accompanied by the telephone icons 51, and those whose images were successfully transferred, by the PC icons 52. All six thumbnails still are shown with their respective numerals 1 - 6.

As Applicant understands it, the Examiner considers the numerals of the thumbnails not designated for transmission to be marks such as those recited in Claims 32, 43 and 54, and presumes that the Examiner would consider that the same feature in *Kawamura* corresponds to the marking means recited in Claim 36. Applicant cannot agree with the Examiner in this regard, however. First, according to Claim 36, if one of the plural images corresponding to one ID is selected by the image selection means, the marking means *add* (Claim 36 uses the word “attach”) to *another* image corresponding to the same ID. The numerals 1 - 6 on the LCD in the *Kawamura* apparatus are present *before* any of the thumbnails is designated for transfer. Moreover, all the thumbnails have such a numeral, and thus the presence of the numeral does not in any way distinguish a designated thumbnail from one that has not been designated for transfer. In both regards, therefore, Applicant submits that the cited feature of the *Kawamura* apparatus (and the rest of the contents of that patent) could not have led one of ordinary skill to the recited marking means of Claim 36.

For all these reasons, it is believed clear that Claim 36 is allowable over any permissible combination (if any) of *Kawamura* with either or both of *Buytaert* and *Strawder*.

Independent Claims 47 and 52 are method and storage medium claims respectively corresponding to apparatus Claim 36, and are believed to be patentable over *Buytaert* for at least the same reasons as discussed above in connection with Claim 36.

A review of the other art of record has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Early and favorable continued examination of the present application is respectfully requested.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



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